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C O N F I D E N T I A L SECTION 01 OF 03 BAMAKO 000580

SIPDIS

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TAGS: [PGOV](#) [PHUM](#) [ML](#)
SUBJECT: NOT SO FAST: ATT SENDS FAMILY CODE BACK TO
NATIONAL ASSEMBLY

REF: BAMAKO 551

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Classified By: PolCouns Peter Newman, Embassy Bamako,
for reasons 1.4 (b) and (d).

1.(SBU) Summary: Amidst a backdrop of growing opposition and vanishing support, President Amadou Toumani Toure (ATT) on August 26 announced his decision to send Mali's recently passed Code of Persons and of the Family (Family Code) back to the National Assembly for revision. The decision represents a decisive victory for those Islamic groups opposed to the Code and a devastating blow to the prestige of the National Assembly. Although ATT was quick to emphasize that disagreement was limited to ten of the Code's over 1,000 articles, the articles at issue are those with greatest support among human rights advocates. Nonetheless, ATT's decision can be viewed as a responsiveness to popular will suggesting Malian democracy is on firmer ground than its critics contend. End Summary.

Protests and Fatwas

¶2. (SBU) On August 3, Mali's National Assembly passed a new Family Code by an overwhelming margin (reftel). Almost immediately, it was condemned as un-Islamic by many of Mali's leading Muslim leaders, foremost among them Imam Mahmoud Dicko of the High Council of Islam (HCI). While the specific contested provisions are discussed in the reftel, the Islamic leaders generally believe the Family Code alters the patriarchal nature of the Malian family in favor of a western, secular view of the family which they see as incompatible with Islam and Malian tradition. For three successive weekends, the HCI led thousands of Malian Muslims into the streets to engage in peaceful protest against the new Code.

¶3. (SBU) On August 22, the first full day of Ramadan, over 50,000 Muslim faithful poured into Bamako's March 26 Stadium and heard the sharpest condemnation of the Family Code to date. The League of Malian Imams and Erudites announced a boycott of the over 90% of National Assembly deputies who had voted in favor of the bill, asking community Imams to refuse to participate in baptisms, marriages, and funerals in which the boycotted deputies were involved. Moreover, the League demanded that deputies who had voted in favor of the Code be denied entry to mosques. The HCI, for its part, issued a fatwa against the National Assembly, and called for the institution's dissolution. Finally, the HCI called for civil disobedience, asking Malian Muslims to refuse to participate in civil wedding ceremonies at city hall. Needless to say, the Muslim leaders also called on Muslim faithful to vote against incumbent National Assembly deputies in the 2012 legislative elections.

¶4. (SBU) The forceful intervention of Mali's Muslim leaders is unprecedented in Mali's democratic era. Generally, as Imam Dicko himself said in a meeting with the Embassy on August 11, the Imams and the HCI have been content to leave politics to the politicians. The HCI only took a stand, Imam Dicko insisted, because the State had specifically targeted Islam with the Family Code, and in the most intimate of life's domains - the family and the home. Due to Mali's low literacy rate, a large number of citizens receive their knowledge of current events solely through the religious pulpit. Although this provides Mali's religious leaders with tremendous potential to organize people behind a political agenda, they have largely "rendered unto Caesar that which is Caesar's," and this recent mobilization against the Family Code should be viewed as an exception to the general rule.

¶5. (C) The protest at the March 26 Stadium in Bamako attracted Muslim leaders from across Mali, reflecting a nationwide discontent that was also evident in protests staged in Mopti and Timbuktu. Although every single demonstration was conducted peacefully, and the Muslim leaders repeatedly stressed to the crowds that their aims must be pursued without violence, supporters of the Code feared possible violence from individual extremists. In a meeting on August 11, Oumou Toure, the President of CAFO, an association of women's NGOs, told the Embassy that a woman's shelter not far from her association's headquarters had been the subject of prior attacks and might be again if the Code was promulgated. Similarly, the press has reported that President of the National Assembly, Dioncounda Traore, received 24-hour police protection for his home during the worst of the anti-Code protests.

On the other side, silence

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¶6. (SBU) In a particularly striking case of bad timing (or an example of a particularly cynical legislative tactic), the National Assembly passed the Family Code just before the deputies recessed for their August vacations. One unintended consequence of this timing is that since the August 3 vote, many of the deputies who voted in favor of the legislation have not been in Bamako to defend it. ATT himself was on vacation until the week of August 24, and by the time of his return, opposition to the Code had grown to such proportions that signing the bill into law would have been politically untenable. Islamic leaders opposed to the Code have held a virtual monopoly on the public debate, and have framed the discussion to their advantage. Even amongst the non-governmental organizations that fought the hardest for the Family Code, there has been little enthusiasm to take the Imams on in a full-force confrontation, nor the organizational means to do so.

¶7. (C) Those supporters of the bill who have spoken out have generally done so only to acknowledge that the Government made mistakes in pushing the Family Code forward. Generally, the deputies argue that opposition to the legislation is rooted in poor information, and that the Government failed to explain the contents of the Bill to the Malian people. Others have suggested the timing of the legislation was rushed. A few weeks before the vote, in a meeting with the Embassy on July 21, Deputy Yaya Sangare lamented that the Government had not given the Deputies enough time to digest the content of the Code, let alone engage in any type of meaningful discussion. Sangare admitted that he would vote on the legislation without having read it, and suggested all of his colleagues would do the same.

ATT the Peacemaker & Consensus-seeker

¶8. (SBU) ATT has been an ardent supporter of the Family Code.

On August 3, he contacted leaders in the National Assembly to congratulate them on the vote. Nonetheless, returning from vacation to a country that was seething with discontent, ATT quickly adopted the cloak of peacemaker. On Monday, August 24, and Tuesday, August 25, ATT met with a cross-section of society, including the leaders of each of Mali's Constitutional Institutions (National Assembly, Supreme Court, etc.), the leaders of major political parties, NGOs, and the High Council of Islam. On Wednesday, August 26, ATT addressed the nation by television and radio and announced that, for the sake of national unity and harmony, he would be sending the Family Code unsigned back to the National Assembly for a second reading.

¶9. (SBU) Both ATT's move, and the constitutional mechanism on which it relies, are consonant with Mali's tradition of consensus politics. In his address to the nation, ATT reviewed the history of the Code's development, and emphasized that all segments of Malian society - including the Imams - had been involved in its drafting. Nonetheless, ATT conceded that some disagreements lingered, and the Code was to be returned to the National Assembly for a re-drafting that would allow the Code to receive "the assent and the understanding" of the Malian people. The Constitution allows the President to send a piece of legislation - in part or in its entirety - back to the National Assembly for a second reading. Consistent with the goal of consensus, this constitutional mechanism is a means of expressing lack of agreement without flatly rejecting or vetoing a piece of legislation.

Comment: Another ten years?

¶10. (C) While praised for his "wise" move, ATT now finds himself between a rock and a hard place. As a supporter of the legislation, ATT must now seek to reconcile diametrically opposed positions while alienating neither the women's organizations that helped launch the Code project, nor foreign donors who have pressed for reform, nor the Muslim organizations that have demonstrated their pull in Malian society over the past month. This process may be even more daunting as the Imams have labeled several of the issues - such as inheritance rights and the recognition of religious marriage - "non-negotiable." In the end, it is likely that Mali will take quite some time to draft a new Family Code, and the revised text is likely to be a watered-down version of its current form.

¶11. (C) Comment continued: While advocates of women's rights

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are justifiably discouraged by this latest development, there is a silver lining to the storm clouds surrounding the Family Code. Specifically, while the Malian National Assembly is sometimes viewed as a rubber stamp, and while the Government is often criticized as an elite group disconnected from the will of the people, this episode represents a strong example of a group of citizens opposed to government action taking legitimate democratic means of protest and using them to successfully pressure the government to take their views into account. While we may not be sympathetic with the Muslim leaders' positions, the government's response to their protests indicates a level of governmental accountability that is laudable in any democracy. End Comment.

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